DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	**Crim. No. 2009-38**
DANIEL CONFIDENTE,	)	
Defendant.	)	

ATTORNEYS:

Ronald Sharpe, United States Attorney
Everard Potter, AUSA
United States Attorney's Office
St. Thomas, U.S.V.I.
For the United States of America,

Benjamin A. Currence, Esq.
Law Offices of Benjamin A. Currence
St. Thomas, U.S.V.I.
For defendant Daniel Confidente.

ORDER

Before the Court is the report and recommendation of Magistrate Judge Ruth Miller regarding defendant Daniel Confidente's ("Confidente") petition for a writ of *error coram nobis*.

On September 3, 2009, Confidente and two co-defendants were indicted. The Indictment charged Confidente with conspiracy to smuggle aliens and transportation of illegal aliens for profit. Thereafter, on December 16, 2009, Confidente pled guilty to Count One, conspiracy to smuggle aliens. On June 8, 2010, this

Court entered judgment in this case, sentencing Confidente to five years of supervised probation.

Confidente’s petition for a writ of *error coram nobis* was filed on October 4, 2013. As of that date Confidente was still serving his supervised probation.

Confidente’s petition was referred to the Magistrate Judge for a report and recommendation. In considering the procedural posture of this case, the Magistrate noted that because Confidente was on supervised probation he was still “in custody.” As such, the Magistrate determined, Confidente is not eligible for a writ of *error coram nobis*. Accordingly, the Magistrate recommends that Confidente’s petition be denied.

Confidente filed no objection to the report and recommendation.

The premises considered, it is hereby

ORDERED that the Magistrate Judge’s Report and Recommendation is **ADOPTED**; and it is further

ORDERED that Confidente’s petition for a writ of *error coram nobis* is **DENIED**.

S\_____________________
CURTIS V. GÓMEZ
District Judge